

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DEANGELO LAMONT MITCHELL,

Plaintiff,

vs.

HIGH DESERT STATE PRISON, *et al.*,

Defendants.

Case No.: 2:22-cv-00236-GMN-BNW

ORDER

Pending before the Court is Plaintiff Deangelo Mitchell’s (“Plaintiff’s”) Motion for an Order to Show Cause, (ECF No. 54). Defendants Jeremy Bean, Charles Daniels, Ben Gutierrez, Michael Minev, Ronald Oliver, and Nonilong Peret (collectively “Defendants”) filed a Response, (ECF No. 62), to which Plaintiff filed a Reply, (ECF No. 69).

Further pending before the Court is Plaintiff’s Motion for Preliminary Injunction,¹ (ECF No. 52). Defendants filed a Response, (ECF No. 63), to which Plaintiff filed a Reply, (ECF No. 68).

Further pending before the Court is Plaintiff’s Motion for Temporary Restraining Order, (ECF No. 55). Defendants filed a Response, (ECF No. 64), to which Plaintiff filed a Reply (ECF No. 68).

This case arises out of Defendants’ alleged indifference to Plaintiff’s serious medical needs while Plaintiff was incarcerated at High Desert State Prison (“HDSP”). (*See generally* Compl. ECF No. 12). Specifically, Plaintiff suffers from urethral strictures, which he alleges

¹ Plaintiff filed a single motion titled “Plaintiff’s Motion for an Order to Show Cause, A Temporary Restraining Order, and Preliminary Injunction.” Under Local Rule IC 2-2(b), that filing was docketed as three separate entries: ECF No. 52 (preliminary injunction), ECF No. 54 (motion for order to show cause), and ECF No. 55 (temporary restraining order). Because Plaintiff’s motion for preliminary injunction and motion for temporary restraining order are identical, the Court will only cite to ECF No. 52.

1 Defendants failed to treat and delayed surgery to treat. (Screening Order 7:24–11:2, ECF No.
2 11). Plaintiff filed a motion for temporary restraining and preliminary injunction, requesting
3 the Court order Defendants to schedule Plaintiff an appointment with a urologist to determine
4 how to treat his urethral strictures. (*See generally* First Prelim. Inj., ECF No. 9). The Court
5 held hearings on Plaintiff’s motions on May 11, 2022, and May 24, 2022. (*See* Mins.
6 Proceedings, ECF Nos. 25, 39). At the conclusion of the hearings, the Court ordered the
7 “[Nevada Department of Corrections] (“NDOC”) to schedule an appointment for [Plaintiff] to
8 see a urologist.” (Prelim. Inj. Transcript 74:16–22, ECF No. 51). The Court further explained
9 that “by July 24th, there should be an appointment” scheduled with a urologist who would take
10 Plaintiff as their next available appointment. (*Id.* 82:14–22).

11 Following the hearings, Plaintiff alleges that Defendants began retaliating against him
12 for his lawsuit by denying him clean catheters needed to treat his condition. (Prelim. Inj. 2:11–
13 24, ECF No. 52). Plaintiff contends that he “was forced to purchase bars of soap from the
14 commissary and attempt to clean and re-use old catheters.” (*Id.* 2:18–21). Rather than being an
15 act of retaliation, Defendants maintain that Plaintiff’s lack of catheters was due to his failure to
16 submit a request to the applicable officials to receive more catheters. (Resp. 7:13–26, ECF No.
17 62). Defendants contend that NDOC now periodically provides catheters to Plaintiff without
18 him making a request to ensure his supply is never depleted. (*Id.*); (John F. Keast (“Keast”)
19 Keast Decl. ¶ 20, ECF No. 67).

20 On July 21, 2022, NDOC scheduled an appointment for Plaintiff to meet with a urologist
21 located in Reno, Nevada, on August 18, 2022. (Lorin M. Taylor (“Taylor”) Decl. ¶ 19, ECF
22 No. 65). On August 4, 2022, Plaintiff was transferred from HDSP to the Northern Nevada
23 Correctional Center (“NNCC”) to attend the appointment, and met with the urologist on August
24 18, 2022. (Keast Decl. ¶¶ 4–5, 8). As a result of this appointment, the urologist ordered the
25 following: (1) CT scan of Plaintiff’s abdomen and pelvis without contrast; (2) retrograde

1 urethrogram (“RUG”); (3) basic metabolic panel (“BMP”); (4) phenazopyridine 200 mg tablet,
2 one tablet(s) three times a day by oral route for three days; (5) D-mannose 500 mg capsule, one
3 capsule(s) twice a day by oral route for 180 days; and (6) Cran-Max 500 mg capsule, one
4 capsule(s) twice a day by oral route for 180 days. (October 24, 2022, Email Exchange at 37–38,
5 Ex. 10 to Prelim. Inj., ECF No. 52-1). Plaintiff argues that to date, “none of the treatment”
6 described above has taken place and “Plaintiff has not been re-scheduled” to see the urologist.
7 (Prelim. Inj. 6:1–3). In response, Defendants contend that Plaintiff cannot show that “declining
8 to prescribe [him] with cranberry and sugar tablets constitute a serious risk of harm,” and that
9 they are in the process of complying with the rest of the treatment recommended by the
10 urologist. (Resp. 2:15–16, 5:3–7).

11 On November 10, 2022, Plaintiff filed the instant Motion for Preliminary Injunction.
12 (*See generally* Sec. Prelim. Inj., ECF No. 52). On November 14, 2022, Plaintiff additionally
13 filed the present Motion for Order to Show Cause, (ECF No. 54), and Motion for Temporary
14 Restraining Order, (ECF No. 55).


15 Accordingly,

16 **IT IS HEREBY ORDERED** that the parties in this case shall appear for a hearing on
17 Plaintiff’s Motions for an Order to Show Cause, Temporary Retaining Order, and Preliminary
18 Injunction IN PERSON on Monday, February 27, 2023, at 10:00 A.M. before the Honorable
19 Judge Gloria M. Navarro in Las Vegas Courtroom 7D. The Court has allocated two hours for
20 the hearing. The parties should be prepared to discuss:

- 21 1. Whether Defendants violated the spirit of the Court’s preceding Order requiring
22 NDOC to schedule Plaintiff an appointment with a urologist by July 24, 2022, by
23 waiting until July 21, 2022, to schedule the appointment, thereby ensuring that
24 Plaintiff would not be seen by the doctor until after the Court imposed deadline
- 25 2. Whether the lack of catheters provided to Plaintiff following this Court’s Order was
in retaliation for continuing the present litigation

3. Related to the preceding question, whether Plaintiff will be continually provided clean catheters going forward
4. Whether Defendants' decision to deny Plaintiff cranberry and sugar tablets was deliberately indifferent to his serious medical needs
5. Whether Plaintiff's transfer from HDSP to NNCC renders his request for injunctive relief moot

DATED this 30 day of January, 2023.



Gloria M. Navarro, District Judge
United States District Court